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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND
RELATED MATTERS.

Hearing held
8th floor
180 Dundas Street West
Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange

Commissioner

P.S.A. Lamek, Q.C.

Counsel

E.A. Cronk

Associate Counsel

Thomas Millar

Administrator

Transcript of evidence
for

April 10, 1984

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Hearing held on the 8th Floor,
180 Dundas Street West, Toronto,
Ontario, on Tuesday, the 10th
day of April, 1984.

- - - - -

THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner
THOMAS MILLER - Administrator
MURRAY R. ELLIOT - Registrar

- - - - -

APPEARANCES:

P.S.A. LAMEK, Q.C.) Commission Counsel
E. CRONK)

D. HUNT) Counsel for the Attorney
L. CECCHETTO) General and Solicitor General
of Ontario (Crown Attorneys
and Coroner's Office)

I.G. SCOTT, Q.C.) Counsel for The Hospital for
I.J. ROLAND) Sick Children
M. THOMSON)
R. BATTY)

D. YOUNG Counsel for The Metropolitan
Toronto Police

K. CHOWN Counsel for numerous Doctors
at The Hospital for Sick
Children


F. KITELY Counsel for the Registered
Nurses' Association of Ontario
and 35 Registered Nurses at
The Hospital for Sick Children



APPEARANCES: (Continued)

J. SOPINKA, Q.C.)	Counsel for Susan Nelles -
D. BROWN)	Nurse
E. FORSTER	Counsel for Phyllis Trayner -
	Nurse
J.A. OLAH	Counsel for Janet Brownless -
	R.N.A.
S. LABOW	Counsel for Mr. & Mrs. Gosselin,
	Mr. & Mrs. Gionas, Mr. & Mrs.
	Inwood, Mr. & Mrs. Turner, Mr. &
	Mrs. Lutes, and Mr. & Mrs.
	Murphy (parents of deceased
	children)
W.W. TOBIAS	Counsel for Mr. & Mrs. Hines
	(parents of deceased child
	Jordan Hines)

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1
2 ---On commencing at 9:30 a.m.

3 THE COMMISSIONER: Yes, Mr. Tobias.

4 MR. TOBIAS: Thank you, Mr.
5 Commissioner.

6 SUSAN NELLES (Resumed)

7 CROSS-EXAMINATION BY MR. TOBIAS: (Continued)

8 Q. Miss Nelles, in giving your
9 evidence in chief and during Mr. Hunt's cross-
10 examination you gave us your recollection of some
11 of the difficulties that you encountered in working
12 with Mrs. Trayner as you articulated them in October
13 I believe it was in 1980 to Mrs. Radojewski; it was
14 October of 1980, do I have that correctly?

15 A. I don't remember exactly, it
16 was some time in the fall of '80.

17 Q. Of 1980. And it was at or
18 about the time that you were due for your evaluation
19 by the head nurse?

20 A. It was at that time, yes.

21 Q. All right, fine. Now, I take
22 it that by that stage you have already indicated
23 that the problem had become sufficiently troublesome,
24 and that's my word not yours I acknowledge that, that
25 you had decided that if the situation couldn't be
improved upon or rectified that you had decided you



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wanted to be taken off the team.

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Now, you also indicated that the way that that was ultimately dealt with was that you and Mrs. Trayner confronted one another to discuss the problems and talk about it. What I didn't understand from your evidence was this. Who was it that suggested that type of resolution, was that your idea or Mrs. Radojewski's?

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A. Mrs. Radojewski.

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Q. All right, and that was something she raised I take it at some time after you had brought to her your concern over the problem?

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A. That was her suggestion at the time.

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Q. All right. And was she suggesting that in effect as an alternative to anything you had suggested prior to that?

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A. No, that was her recommendation that what should take place as a result of that meeting.

Q. I see. Now, prior to her suggesting that do you recall if you had indicated to her whether or not you wanted to be taken off the team?

A. I said that if it couldn't



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be resolved that I felt I wouldn't be able to work effectively with her.

Q. All right. Now, in fairness, what I read from that answer, and please correct me if I'm wrong, is that at the time you raised it with Mrs. Radojewski you hadn't decided in your own mind that you wanted to be taken off the team, what you were doing was making her aware of the problem listening to any counsel she might give you, open to suggestions as to how it might be resolved and only then in the event that those efforts failed would you want to be taken off the team. Do I have that sequence correctly now?

A. Right.

Q. All right. You have indicated to Mr. Lamek in your direct evidence that basically that happened in the fall after about four or five months of working on the team, I believe you came on on June 1st.

A. Yes.

Q. All right. Now, correct me if I am wrong, you were away from the Hospital from August 19th until September 1st?

A. Some time around then, yes.

Q. I understand your vacation



1
2 was actually the week of the 25th but that you had
3 a few days off before that?

4 A. Right.

5 Q. And when you came on Mrs.
6 Trayner would have been away on her vacation that
7 she took for her wedding?

8 A. Right.

9 Q. So that in fact prior to the
10 middle of August you had really only worked with Mrs.
11 Trayner about two or two and a half months?

12 A. Right.

13 Q. All right. Do you recall if
14 it was shortly after Mrs. Trayner's return that you
15 had this meeting with Mrs. Radojewski?

16 A. I don't remember, it would
17 have been when I had my evaluation.

18 Q. All you can help me with is
19 some time in the fall?

20 A. Right.

21 Q. In any event, it would appear
22 that the --

23 THE COMMISSIONER: We have the date
24 I think of the evaluation, it is one of the exhibits.

25 MR. TOBIAS: Yes, I believe it was
an exhibit, the evaluation.



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THE COMMISSIONER: Well, if it matters
we can always get it.

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MR. TOBIAS: It may assist us with
the date, Mr. Commissioner.

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THE COMMISSIONER: It was when Mrs.
Radojewski was giving her evidence.

7

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MS. CRONK: It is Tab 16, sir, of
Exhibit 32A and it is dated October, 1980.

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10

MR. TOBIAS: I am sorry, Ms. Cronk,
I missed that, October...

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MS. CRONK: 1980; October 28th, 1980.

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MR. TOBIAS: Q. So, we know
then it was some time in October when you had the
conversation, not necessarily the date that she
actually signed your evaluation report but some time
that month?

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A. I would think so, yes.

17

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Q. It appears from that that the
problem was sufficiently bothersome to you that it was
still bothering you after you and Mrs. Trayner had been
absent from one another's working company for some
five weeks; is that fair?

21

A. Right.

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Q. Okay. Now, will you agree
with me that asking to be taken off the team in the



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event that it didn't work out, and I recognize that
you wanted to give it the opportunity to work out,

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but that was rather a dramatic solution, was it not?

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A. I don't think it reached that
point. I was listening to what Mrs. Radojewski had
to suggest.

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Q. Well, I know it didn't reach
that point and I don't mean to impute to you that it
did. My point is simply this. It is certainly a
pretty final solution, it indicates that you were
considering it and if indeed it had been necessary
it would indicate that the working relationship
couldn't get much worse than that, could it?

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A. Couldn't be resolved, no.

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Q. Okay. It was resolved before
it got that bad?

A. That's right.

Q. Now, you told Mr. Lamek in
chief that by the end of July you hadn't really
discerned any pattern in the deaths in the terms of
the symptoms that the children were exhibiting or
the time frame in which they were dying or which
team was on and that really all you did notice was
that it was rather a high number of deaths; do I
have those facts correct?



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MR. SOPINKA: Well, Mr. Commissioner, with respect, the general ground has been covered three or four times. I submit that my friend should restrict himself to particular questions relating to Hines. I mean, this has been gone over, the pattern.

THE COMMISSIONER: Yes, I know.

MR. SOPINKA: I mean, you may find it of some value but frankly, I mean, it doesn't help to repeat it four or five times.

THE COMMISSIONER: The trouble is I never know. I never know whether it is going to be of value or not until the question is out and the answer is in and then sometimes two or three other questions. Mr. Tobias understands that his major issue is of course the death of Jordan Hines but you still have to, you may have to go into other matters in order to assist you in that. As long as you understand the problem, Mr. Tobias.

MR. TOBIAS: I understand that, Mr. Commissioner. I am somewhat concerned though, and I don't for a minute mean to infer that this is how you have been making your rulings or that you ever tried to or have given any indication that you were about to do it, but I do want to make it clear to my



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2 friend because he raises the point very specifically
3 that we simply can't have one set of rules for the
4 parents of Hines and a different set of rules for
5 all of the other parties and while I will acknowledge
6 that my major function here is to enquire into the
7 cause of and circumstances of his death and only his
8 death. --

9 THE COMMISSIONER: Well, give me a
10 chance to answer that. We have one set of rules and
11 that is that everybody is allowed to cross-examine
12 in accordance with his interest.

13 MR. TOBIAS: Fine.

14 THE COMMISSIONER: The problem is,
15 what is your interest and again with Mr. Sopinka I
16 have to ask what is his interest and what is his
17 client's interest. So, the same rule for everybody
18 but like all rules they are differently applied
19 because people have different interests.

20 Now, there you are, I don't think you
21 have advanced the matter very far, Mr. Sopinka -
22 Mr. Sopinka, I am looking at him but he meant well
23 I think.

24 MR. SOPINKA: Well, I mean, if you
25 take the rules of evidence, if there were multiple
defendants all having a special interest, if one



1
2 defendant covers the general ground other defendants
3 are never allowed to cover the same general ground.
4 There isn't a different rule, it so happens that Mr.
5 Tobias is last and he's trying to rehash the same
6 general ground that has been gone over four or five
7 times ad nauseum. If he has some special fact that
8 he wants brought out about these trends then I think
9 he should get right to it instead of going along,
10 well now, you were there on such and such a day and
11 on such and such a day, all of which has been gone
12 over ad nauseum and the witness has some rights not
13 to have this stuff repeated over and over again.

14 THE COMMISSIONER: Yes, all right,
15 Mr. Tobias.

16 MR. TOBIAS: Thank you, Mr.
17 Commissioner. Your evidence, Miss Nelles, was that
18 by the end of July you had noticed a high number of
19 deaths. I take it that that is because by my count
20 at least, using Exhibit 383, that there had been six
21 deaths at that time in 30 days and it was really the
22 number that you noticed rather than anything else.
23 Do I have that correctly?

24 A. Right.

25 Q. Okay. And although the
number dropped in August there were only three, I



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take it that that was still noteworthy, given your
own previous experience in cardiology?

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A. I think of the time in July
and August as one area.

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Q. As one period and the only
thing that was really noteworthy was the number of
deaths and nothing else?

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8

A. Right.

9

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Q. All right. Now, you were
away between August 19th and September 1st?

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A. Right.

12

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Q. Did you know in July and
earlier in August that you would be team leading
in September?

14

A. I don't remember.

15

16

Q. All right. Surely though you
would have had to know that before you returned to
the Hospital on September 1st?

17

18

A. I don't remember if I knew
beforehand, I imagine I did.

19

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Q. All right. Did you have any
concern whatsoever about team leading for the first
time given the high number of deaths and the apparent
cluster?

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A. I never related it to that, no.



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Q. So it didn't bother you that you might be taking on your first team leading assignment at a bad time, bad luck?

A. I don't remember thinking that, no.

Q. Now obviously it was a time of great strain for you, you have already indicated that. By my count, prior to your vacation, you had experienced about nine deaths in a little over 50 days. When you came back in September and you were team leader were you relieved that things had apparently quieted down?

A. All I remember is coming back from vacation and ready for a new start sort of thing.

Q. Now between September 1st and the 25th, which is a period of 25 days, the evidence indicates that there was only one death, was that something that you took note of?

A. No, it was not.

Q. You didn't relate that necessarily back to the rather high number of deaths in July and August?

A. No, I did not.

Q. You didn't think to yourself



Nelles, cr.ex.
(Tobias)

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thank God, it's over?

A. No, I didn't.

Q. So that you didn't note any contrast at all between the two time periods?

A. Not really, no.

Q. Now you also indicated, and this is simply a question that I ask because I find your evidence slightly confusing and perhaps you can help me clear it up. At Volume 124, and the page reference, sir, is 8247. You indicated that you had asked Phyllis Trayner on the night of Allana Miller's death to flush Miller's IV line and do her vital signs in your absence; but you had earlier said that you checked Miller's vital signs at 11:45 yourself before leaving to take Justin Cook to the echo lab. Were there vital signs to take again after that?

A. Allana Miller was on hourly apical rate.

Q. Right.

A. She would require all her vital signs to be done at midnight.

Q. So the vitals that you were asking her to take for you would those have been the vitals that you anticipated had to be checked



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at 1 o'clock?

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A. No, at midnight.

4

Q. But did you in fact take - oh,

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I see, did you take the apical rate at 11:45?

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A. That's right.

7

Q. Why did you want it checked

8

again at midnight 15 minutes later?

9

A. Because as I say I wouldn't

10

be there and she would be requiring all of her
vital signs to be done at midnight.

11

Q. I understand. Did you take

12

any of her other vital signs at 11:45?

13

A. No, I did not.

14

Q. So the only thing you did at

15

11:45 was check the apical rate?

16

A. And the intravenous, yes.

17

Q. And you had intended to leave

18

the rest of the vital signs until midnight, and your
intention was to ask Phyllis Trayner to take those
for you?

19

A. Yes.

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Q. And she did take those vital

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signs at midnight as her writing on the medical
chart indicates?

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A. I don't know, someone did.

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Q. Now you have also given evidence that when you came on shift on March the 21st you were to administer propranolol to Baby Cook, and you did indicate that there had been a shortage of propranolol and that in fact some had been drawn up by Nurse Scott. Your evidence was then that you checked with Phyllis Trayner who was your team leader before administering the medication drawn up by another RN. There is nothing unusual about that, is there?

A. No, it is not.

Q. As a matter of fact it is good nursing practice in a situation where you were unsure to check with your immediate superior who would be your team leader and let her make the decision?

A. Right.

Q. Now at 1:00 a.m. on March the 21st Allana Miller, as you have already indicated, was due for an administration of gentamicin, and I understand that Phyllis Trayner at that time came to you and asked you to check the dose.

A. I'm sorry, I am confused about which night we are talking about, because Justin Cook was due for propranolol that night of the 21st.



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Q. It would have been the long

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night shift of the 21st and 22nd.

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A. Now you are back to Allana

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which is the 20th.

6

Q. That's right, back to the

7

morning, the Friday night, early Saturday morning

8

1:00 a.m., the night before.

9

A. Okay.

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Q. At that time as I understood

11

your evidence Nurse Trayner came to you, and you

12

couldn't remember whether you had asked her to give

13

the gentamicin or she was doing it for you, and she

14

checked with you the dosage and showed you what she

had drawn up out of the vial.

15

A. Right.

16

Q. Now prior to that had Phyllis

17

Trayner given medications for you before, over the

18

nine month, or longer over the 10 or 11 months that

you had been working with her?

19

A. I don't remember, she could have.

20

Q. Do you have any recollection -

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let me ask this, is it possible she could have given

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antibiotics for you on a prior occasion?

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A. She could have.

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Q. It is possible?

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A. Yes.

Q. Do you have any specific
recollection of her coming to you before --

MR. SOPINKA: How could she have,
she only said she could have, she doesn't remember
any occasion, so how could she have any specific
recollection?

THE COMMISSIONER: Well, I think
the answer is going to be an easy one.

MR. TOBIAS: I would have thought
that the answer is obvious.

MR. SOPINKA: All the answers are
obvious, you might as well be putting them through
a dictating machine. I mean the witness has indicated
she doesn't remember anything about Hines except
certain matters relating to the arrest, and my
friend has been cross-examining for an hour and a
half.

MR. TOBIAS: May I put the question,
sir?

THE COMMISSIONER: Yes.

MR. TOBIAS: Thank you.

Q. Do you have any specific
recollection of Phyllis Trayner ever having checked
a dosage of antibiotics that she was about to



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administer on your behalf, prior to that night?

3

A. I don't remember.

4

Q. Was there anything strange

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or unusual about her being the team leader checking

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with you on an administration of antibiotics which

7

I understand didn't have to be checked?

8

A. Not in light of the fact that

9

she was giving the medication for me.

10

Q. Nothing strange or unusual

about that?

11

A. We don't normally have to

12

check antibiotics, but in this circumstance she was

13

giving a medication for me.

14

Q. What I want to know is this,

15

were you surprised only because it was an antibiotic

16

she was asking you to check, or because she was a

17

team leader and asking you to check that dosage,

which was it that was surprising?

18

A. Because it was an antibiotic.

19

Q. The fact that she was team

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leader had nothing to do with your element of

21

surprise?

22

A. No.

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Q. Now you also gave evidence

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regarding the flushing of the IV line. I believe

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you indicated that your own practice was not to do
it with a syringe but rather let some material
from the bag flow through into the line?

5

A. That's right.

6

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Q. Now, first of all, would
that method not be the easier of the two methods
in terms of flushing the line?

8

9

A. It is.

10

Q. And I take it that is why
that was your normal practice because it was easier?

11

A. Right.

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Q. And less trouble to do it that
way?

14

A. That's right.

15

16

Q. Now, do you have any knowledge
at all of what the practice of other RNs on your
team was in terms of flushing IV lines?

17

18

A. I would think the majority
of them would do it the way that I just demonstrated.

19

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Q. And that would be by opening
the bag and allowing the material to flow through
rather than using the syringe.

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A. Right.

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Q. Now, in Mr. Hunt's cross-
examination you were specifically asked whether it

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had ever occurred to you that perhaps the coincidence of how many of the babies that you were caring for died under somewhat unusual circumstances; whether it had ever occurred to you or entered your mind that someone might be trying to discredit you. Your response was that it had. Do you recall when that first came to mind?

A. No, it was some time after I was charged.

Q. Do you know whether it was before or after those charges were disposed of?

A. I would imagine it was before.

Q. Fine, and obviously it was something that you thought about and considered?

A. There are a number of things that I thought of and considered, yes.

Q. And that was one of them?

A. That's right.

Q. Now, I take it that if that did enter your mind and you were considering it, that you must have cast about in your own mind thinking of who might wish to discredit you?

A. Yes.



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Q. And did you come to any

factual basis --

THE COMMISSIONER: Wait, wait.

MR. SOPINKA: No, I think --

MR. TOBIAS: Well, I am putting the question very carefully, Mr. Sopinka. Allow me to put the question before you object.

MR. SOPINKA: Well, with respect, he has gone as far as he ought to be allowed to go.

THE COMMISSIONER: Well, if there are any facts, but surely there are at this point very few facts. If you have a fact you want to put to her, that is fine, Mr. Tobias, but it is impossible for me to think there is another fact that could have induced her to reach this conclusion that hasn't been disclosed so far.

MR. TOBIAS: Well, first of all, it is not a rule of law or evidence, it is a matter of common sense and etiquette to wait until a question is finished before you object.

Excuse me, Mr. Roland, are you not feeling well this morning?

Secondly --

MR. SOPINKA: I am surprised --

MR. TOBIAS: Secondly and more



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MR. SOPINKA: I am surprised to be lectured to by Mr. Tobias on the rules of ethics. He has obviously violated most of them in his cross-examination.

THE COMMISSIONER: Well, we are not advancing anything at the moment.

MR. TOBIAS: Secondly and more importantly I have very carefully followed the ruling that you made. The question that was put to the witness was a fair and proper question, and that was whether there were any facts, any factual basis that would allow her to come to any conclusion. If there weren't, then --

THE COMMISSIONER: If there were any facts. What was worrying us was that if people don't have the ruling in mind, they might well answer -- I don't want to take over this examination --

MR. TOBIAS: Well, if those who object were here more often, they would be aware of those rulings.

THE COMMISSIONER: Let's not get into that. We have other matters to attend to.

Whatever conclusion you did reach, Miss Nelles, was it based upon any solid fact? Did you



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have any solid fact that led you to whatever conclusion you did reach, if you did reach a conclusion?

THE WITNESS: I don't think I ever reached a conclusion.

THE COMMISSIONER: Well, that's it.

MR. TOBIAS: That's fine. That is the end of it.

THE COMMISSIONER: That solves that problem.

MR. TOBIAS: Q. Now, you also indicated in Mr. Percival's cross-examination that when you used the term "intervention", when Mr. Lamek used that term and you agreed with it, what you meant was by a person doing something to a baby. Do I have that correctly?

A. That was one possibility, yes.

Q. Okay. That is one possibility you did consider and that you weighed in your mind?

A. Right.

Q. And again did you cast about in your mind at that time for any possible identity of anyone who might wish to harm a baby? Was that something that you ever considered?

A. Yes, it was.

Q. All right. Now again did you



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come to any conclusions, and if you did, did you have any factual basis for coming to those conclusions?

THE COMMISSIONER: I think we can solve it by the first part. Did you come to any conclusions?

THE WITNESS: No, I did not.

MR. TOBIAS: All right. Fine.

Thank you.

Q. In Mr. Labow's cross-examination of yesterday you indicated that the comments that were transcribed in Miss Costello's notes and were attributed to you at the meeting of March 23rd at Liz Radojewski's house simply meant no more than that the nurses had to stick together as a group of nurses. Do you recall giving that evidence?

A. Right.

Q. My question is simply this: For what purpose did the nurses have to stick together?

MR. SOPINKA: Oh, wait.

THE COMMISSIONER: We are going to have some trouble with that because that I think is Phase II. I thought that the part of that meeting, if we went into it at all, was the part that dealt with Kevin Pacsai, and we have had that.

I think the purpose for which they



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were sticking together - if no one else has any objection to this, I don't want to raise my own, but it does seem to me that the probability is that that relates, if at all, to the second phase.

MR. TOBIAS: Well, if I may respond --

MR. SOPINKA: I think we have been through this before and you allowed that question to be put because it was suggested that that might reflect on the earlier statement that everything had been done properly in the case of Pacsai, and why would you have to stick together.

THE COMMISSIONER: Well, perhaps, but the first part of that statement clearly had to do with Pacsai and had to do with the cause of death.

The second part of it was much more dubious, and every time we do come to the second part, we have to skate very carefully on very thin ice.

MR. TOBIAS: Two points by way of response, sir. It was the witness' evidence yesterday as I read it, and I may have misread it - I acknowledge that possibility --

THE COMMISSIONER: Well, I think --

MR. TOBIAS: -- that the comment went to more than Pacsai.

THE COMMISSIONER: Well, I am the only



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person objecting to it so you go right ahead then.

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No one else is raising the question so...

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MR. TOBIAS: All right.

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Q. What I put to you: Given the evidence you have already given to us and the evidence particularly you gave to Mr. Labow yesterday about the fact that you were sure there had been no errors made with respect to Pacsai; you were confident you had done nothing wrong; there was nothing to worry about, and given the fact that, as you indicated to Mr. Labow yesterday, you were aware of an investigation, you were aware of a Coroner's investigation into the death, the nurses as a group had to stick together and support one another. For what purpose did they have to stick together?

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A. I told you that - or as I said yesterday, that those two statements that Miss Costello wrote were not related.

Q. I believe you also said that the statement about sticking together related to the fact you were aware that a Coroner's inquest had been called and there was an investigation ongoing.

Now, in that context what did that have to do with sticking together? What did you have to stick together about?

MR. SOPINKA: She has already



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testified, and I mean in view of the fact there were these proceedings going on, this statement was made in that context. If my friend was ever being summoned to a Coroner's inquest, he might want to have some discussion about how it was to be handled as well, and this obviously relates to Phase II.

MR. TOBIAS: No, indeed --

MR. SOPINKA: What she has said has nothing to do with Pacsai. Those two statements aren't related. What has that to do with the cause of death?

THE COMMISSIONER: That was my position, but I thought you were arguing against me.

MR. SOPINKA: No, I was agreeing. I said that you had allowed it in for a limited purpose. Obviously I didn't make myself very clear. It having been established that the second statement was not related to Pacsai, that's the end of Phase I as far as I can see, and I pointed out that was your ruling yesterday.

THE COMMISSIONER: That is what I had thought too.

MR. TOBIAS: If I may respond?

THE COMMISSIONER: Yes. All right.

MR. TOBIAS: I mean if you find against me, fine, but at least allow me to respond, sir.



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The point, why I believe it relates to Phase I is because it relates directly to the credibility of a number of witnesses that have been called in the last six weeks.

THE COMMISSIONER: I don't know how it relates to the credibility. They have all said the same thing. They have all said the same thing and --

MR. TOBIAS: Fine. Now we have --

THE COMMISSIONER: In every instance she has said, I gave the right dose --

MR. TOBIAS: Yes.

THE COMMISSIONER: -- and I had it checked by Mary Jean Halpenny, and that's it. Then I went on to say, we will all stick together. Now that "we will all stick together" is something we are going to go into again and again and again --

MR. TOBIAS: Yes.

THE COMMISSIONER: -- in Phase II, but I don't really want to go into it here unless we have to.

MR. TOBIAS: Right.

THE COMMISSIONER: How is it relevant?

MR. TOBIAS: It is relevant in that I think this witness has offered a new interpretation



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C9 2 and a new piece of evidence. I understood the other
3 witnesses to be indicating that comment only went to
4 Pacsai and Pacsai only, and that they steadfastly
5 denied it had anything to do with any other events
6 or any other investigation ongoing.

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Now, those witnesses said that --

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MR. SOPINKA: That is not the evidence.

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THE COMMISSIONER: Well, it may be
some of it but also some of it is not too. Now what
are you saying?

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MR. TOBIAS: Now if this witness
has said otherwise, then I put to you that affects the
credibility of the evidence that you have already
heard from the other witnesses, and that surely --

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THE COMMISSIONER: Well, it --

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MR. TOBIAS: -- reflects on the
weight you have got to give that evidence in Phase I.

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THE COMMISSIONER: I am not giving
it any weight at all in Phase I at the moment at
least. Unless somebody can persuade me it has something
to do with Phase I, I am not going to give it any
weight.

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MR. TOBIAS: Sir, what I am saying,
I think it has to affect the weight that you give to
the general evidence of all of those witnesses with



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respect to Phase I, and surely they must have testified as to matters that go to Phase I. Otherwise I don't think we would have wasted six weeks in calling them.

THE COMMISSIONER: All right.

MR. SOPINKA: Mr. Commissioner, my friend has lectured about ethics. I thought the first rule was that when the Commissioner makes a ruling, you don't keep arguing about it until you are worn down and persuaded otherwise. You have made your ruling and I submit my friend should go on to something else.

MR. TOBIAS: I have nothing further to add, sir.

THE COMMISSIONER: Well, in my view, rightly or wrongly, the first part of it has to do with the cause of death; the second part of it can only relate to Phase II, and therefore I don't want to pursue it.

MR. TOBIAS: Q. Miss Nelles, I would like to ask you this last question from today's perspective. Obviously these matters are something that over the last three years you have been pre-occupied with, and I sympathize with you, and I say that sincerely. I know that you have obviously gone



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C11 2 through a great deal of stress. You have obviously
3 given the events of the last three years an awful lot
4 of thought. You went through a very trying preliminary
5 inquiry. You have gone through a very trying week and
6 a half at this Commission.

7 Given all you know today, all of the
8 evidence from all sources, your own perceptions,
9 things that you have read in the charts, the evidence
10 of other witnesses that you have heard, is there any
11 explanation that comes to your mind, and I want your
12 own view on this, as to how so many of these babies
13 over a nine-month period came to their deaths, in a
14 great many cases suddenly and unexpectedly, again in
15 a narrow time band, in the presence of a particular
16 nursing team, and again in some cases having exhibited
17 signs of digoxin, and in other cases that being the
18 case where no digoxin was even prescribed.

19 Is there any explanation that you
20 have for that in your own mind?
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MR. SOPINKA: I don't think that's a fair question. I mean, that first of all is a question for you. My friends' question reads for about 15 lines. That's not a question for this witness, that's a question for the Commission and it would be based on opinion and it wouldn't be fair to have it answered unless all the factual basis is identified so that you would know whether there are any other facts in support of that. So, I submit that the witness has given all her knowledge about any circumstances and she shouldn't be asked to venture an opinion on the matter.

THE COMMISSIONER: Anything further you want to offer us on that matter, Miss Nelles?

THE WITNESS: As Mr. Sopinka says I think that that's - I don't feel qualified to answer that.

MR. TOBIAS: Thank you, Miss Nelles.

THE COMMISSIONER: Yes, all right, thank you. Mr. Sopinka?

MR. SOPINKA: I have no re-examination.

THE COMMISSIONER: Mr. Lamek?

RE-EXAMINATION BY MR. LAMEK:

Q. Miss Nelles, there are a few matters that I would like to discuss with you if I



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may but perhaps we could do what may first of all
fall into the area of housekeeping.

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First, do you have available to you
Volume 124 of the transcript, please? I think we
can make a copy available or we can look at mine.

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Page 8301. I was asking you in chief
about the breaks on the night when Justin Cook died
and I asked you at line 7 this question:

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"Q. From the time you returned
from your break,..."

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And that was the coffee break I was referring to.

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"...and I think you said at that point
Mrs. Trayner left the room, did you
then remain with Justin Cook in Room
418 for a period of time?

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A. Yes, I did.

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Q. For how long?

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A. Until Sui relieved me for my
next break."

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And I confess that was not my
recollection of your evidence. If that is a wrong
statement in the transcript, could we please correct
it.

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THE COMMISSIONER: It is "she".

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MR. LAMEK: Q. Who relieved you

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for your next break on the night that Justin Cook
died?

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A. Mrs. Trayner did.

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Q. And that answer should there-

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fore read "Until Mrs. Trayner or Phyllis relieved
me for my next break."

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THE COMMISSIONER: No, it should
read "she".

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MR. LAMEK: Should it?

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THE COMMISSIONER: It should be "she"
instead of "Sui", it is as simple as that I think.

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MR. LAMEK: It could indeed.

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THE COMMISSIONER: Yes.

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MR. LAMEK: Q. But if we can
identify the person and avoid any ambiguity on
pronouns, it is intended to refer to Mrs. Trayner.

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A. Right.

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Q. Thank you. And at page 8130
in the same volume, I had been asking you on the
preceding page, Miss Nelles, about your recollection
of an occasion when you said Mrs. Trayner had drawn
up arrest drugs prior to an arrest being called; do
you remember that?

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A. Right.

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Q. And that was page 8129. You

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couldn't identify the particular occasion or the
child that was involved but then I asked you at the
bottom of page 8129:

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"Q. And thereafter that shift did
a patient in fact arrest and die?"

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Your answer is transcribed as:

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"A. I don't think so but again I
can't be sure."

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And I confess that wasn't my
recollection of your answer. I thought you said you
did think so but you couldn't be sure. So, let me
ask you the question again please.

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Is it your recollection that on the
night when you do remember Mrs. Trayner as having
drawn up drugs for an arrest in advance of an arrest
being called, is it your recollection that a child
did in fact arrest that night?

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A. I really can't be sure because
I can't remember exactly when she, for which child
or when she drew up the medications. I can't be
sure if in fact the results that you suggest did
take place afterwards. It is my feeling that, yes,
that did happen but I can't be sure.

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Q. All right. So there is clearly
uncertainty in your mind as to whether in fact there



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was an arrest that night but to the extent that you have a recollection you think there may well have been one?

A. Right.

Q. All right.

MR. SOPINKA: Well, I wonder if it is an arrest or a reconstruction?

MR. LAMEK: I don't know.

THE COMMISSIONER: A feeling, I think I would put "I feel".

MR. LAMEK: Q. It is your feeling that there was one but you can't be sure?

A. Right.

Q. All right.

THE COMMISSIONER: I don't know what a feeling is, whether that is a reconstruction of anything else.

MR. LAMEK: Q. Now, at Volume 125 of the transcript, page 8371, Mr. Commissioner, beginning at line 2 Mr. Strathy asked you these questions and I read them to you merely to bring the topic back to mind, Miss Nelles:

"Q. You testified that you, after Cook had been admitted, that you took Baby Cook to the echo lab.



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"A. That's right.

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Q. Do you have a recollection of

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how it was that you took Cook, in

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other words did you carry Cook in

6

your arms, did you wheel him in a

7

bed, how did you pick the baby up?

8

A. I can't remember.

9

Q. I beg your pardon?

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A. I can't remember.

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Q. How old was Baby Cook?

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A. He was about three and a half
months old.

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Q. With a baby that age would it

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be quite possible that you would in

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fact carry the child?

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A. Yes, it would be.

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Q. If I suggested to you it is

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more likely than not that you did

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carry the child to the echo lab,

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would you be prepared to agree with
that?

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A. I really can't remember whether

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I took him in his bed, or whether I

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carried him."

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And then again at page 8406 Mr. Strathy

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2 reminded you there of the note in the chart in which
3 you had said, this is line 13, 14, Mr. Commissioner:

4 "At approximately 030 I returned to
5 418 where I put Justin in his crib
6 in 100 per cent oxygen and settled
7 him."

8 And then he asked you:

9 "Now, looking at those notes, is it a
10 fair inference from those notes that
11 because you say that on returning to
12 418 that you put Justin in his crib,
13 is it a fair inference that when you
14 took him to the echo lab and when you
15 brought him back from the echo lab
16 he was in your arms rather than in
17 his crib?"

18 And you agreed that that was a fair
19 inference. Do you in fact have any recollection of
20 how you took Cook to the echo lab and brought him
21 back?

22 A. I really don't remember. I
23 believe that that was taken from the notes that I
24 wrote myself.

25 Q. Yes, it was. Did anyone go
with you when you took Cook to the echo lab?



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A. I know that Dr. Soulioti and Dr. Schaffer were there. I can't remember again whether they actually walked down - I believe that Dr. Schaffer had already gone ahead but I believe that Dr. Soulioti may have walked with me but I can't be sure again, she may not have as well.

Q. Did the baby have an IV running?

A. No, he did not.

Q. Okay. And therefore that doesn't assist you at all in knowing whether you took a crib or carried him in your arms?

A. I can't remember.

Q. All right. I want to go to another event of that night and that is the administration of the 1 o'clock dose of gentamicin to your patient that night, Allana Miller. I don't think I need to refer you to the evidence, it is found, Mr. Commissioner, for your reference in Volume 124 at page 8250 beginning at line 6 and going over to the next page. Mr. Olah asked you about it yesterday, you will remember.

A. Right.

Q. That is Volume 127, page 8815 to 6, sir.

Now, as I understand it from your



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evidence, Miss Nelles, Mrs. Trayner brought into
the room the medication ticket.

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A. Right.

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Q. You were in 418, she brought
to you the medication ticket and a vial or more
than one vial of gentamicin.

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A. A empty vial.

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Q. A empty vial. And a syringe
into which she had drawn up presumably the gentamicin.

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A. Right.

Q. Do you recall what size that
syringe was?

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A. No, I'm sorry, I don't remember.

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Q. Do you recall the dose of
gentamicin which was to be administered and you
don't have to test your memory we can look at the
chart I take it.

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A. Right.

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Q. It appears that the order
was written, page 38 of the chart, sir, for 10
milligrams IV every eight hours. Can you tell me
please what volume of material is needed to administer
8 milligrams of gentamicin?

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A. It is 8 or 10?

MS. CRONK: 10.



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MR. LAMEK: I'm sorry, 10 milligrams.

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THE COMMISSIONER: Page 30 in mine

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is --

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MR. LAMEK: Page 38 is the

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medication sheet, sir.

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THE COMMISSIONER: 38.

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THE WITNESS: Again, it is very

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difficult for me to remember because I don't give
those antibiotics as much any more but I believe

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that gentamicin came - I believe it was 80 milligrams

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in 2 cc's, so therefore, 40 milligrams per cc, or

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1 cc, I'm sorry.

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MR. LAMEK: Q. If you are right

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about that then we are talking about a quarter of a
cubic centimetre of liquid?

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A. Right.

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Q. To deliver 10 milligrams of

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gentamicin?

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A. Right.

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Q. And that would not take a

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large syringe I take it?

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A. No, it would take a tuberculin.

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Q. I'm sorry?

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A. It would take a 1 cc or a

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tuberculin syringe.

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Q. Now, that doesn't of course tell us what size syringe Mrs. Trayner actually had. Do you have a recollection of that?

A. I really don't remember.

Q. I understand from all the evidence that we have heard that the tuberculin syringe, the 1 cc size was commonly used on the cardiology floors.

A. Yes, it was.

Q. Was it the most frequently used size syringe?

A. In administering medications, probably.

Q. Do you have any recollection, whether at around the 20th, 21st or 22nd of March there was any shortage of tuberculin syringes on that floor?

A. No.

Q. You have no recollection?

A. No, I don't.

Q. If indeed Mrs. Trayner were unable to obtain a 1 cc syringe to administer that gentamicin, what's the next size syringe moving up in volume?

A. A 3 cc.



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Q. A 3 cc?

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A. Right.

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Q. Now, you told, I think

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Mr. Olah, yesterday, and I think you told Mr. Tobias again this morning that you were not surprised that Mrs. Trayner checked that gentamicin dose with you before she administered it because she was giving it to your child.

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A. Right.

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Q. And although one normally

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did not need to check antibiotics with another nurse before administering them, in this case the dose being directed to your patient, you didn't find it particularly odd that she did, and check with you?

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A. No, although, I found it a little surprising that she did check an antibiotic.

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Q. Sure. What's the purpose of checking drugs with another nurse?

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A. Well, normally they are specific drugs that, according to protocol, must be checked and I think with digoxin, for instance, the purpose in checking is that you are dealing with decimal points and with a very small margin of error - well, actually quite a large margin of error in that I mean if you move the decimal point to the left or

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to the right it could make quite a dramatic difference.

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Q. Yes. When you say you did not find it particularly surprising that Mrs. Trayner should come and check that gentamicin with you, are you saying essentially this, that in the circumstances where Nurse A is going to administer a drug to Nurse B's patient it's not surprising that Nurse A would want Nurse B to be satisfied that she was indeed administering what was prescribed in the amount prescribed?

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A. Yes.

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Q. Now, that didn't happen here though, did it? The drug was already drawn up, was it not?

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A. That's my recollection, yes.

16

Q. (And that's been your evidence?

17

A. Yes.

18

Q. And you had no assurance that that syringe contained gentamicin, did you?

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A. Other than that she had the empty vial with her.

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Q. Right. Any more than you had had any assurance that the contents of that syringe in the fridge were indeed Interlal?

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A. Right.

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Q. Now, you had no reason to
doubt either, did you?

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A. No, I did not.

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Q. But you had no certain
knowledge?

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A. Other than what she showed me.

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Q. And if Mrs. Trayner's purpose
in checking, which was what we called it, checking
the gentamicin with you was to satisfy you that
she was giving the right drug in the right amount
to your patient, did she not in fact make it
impossible for you to be satisfied because the drug
was already drawn up when she came in?

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A. I don't remember feeling
unsatisfied.

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Q. No, but I ask you now how
could you be satisfied that she was in fact
administering the prescribed drug in the prescribed
amount when the drug was already drawn up when she
came in?

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A. I guess I trusted her.

21

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Q. Of course you trusted her but
you couldn't be satisfied?

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A. Right.

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Q. And if the purpose of checking



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was to satisfy you that purpose could not have been
achieved, could it?

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A. No, because it was already

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drawn up.

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Q. But that did not occur to you

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at the time?

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A. No, it did not.

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Q. I take it the only way you could have been truly satisfied that the right drug and the right amount was being administered to your patient was if the drug had been drawn up in your presence?

A. That's right.

Q. Let's move to an event that occurred the next night, the night of Justin Cook's death.

THE COMMISSIONER: Yes, Mr. Olah.

MR. OLAH: I am sorry, maybe my friend could clear up whether in fact the normal procedure, is it in fact drawn up with the other nurse.

THE COMMISSIONER: There is no checking at all with gentamicin.

MR. OLAH: When checking does occur, I wonder if my friend might perhaps say so on the record.

MR. LAMEK: Q. Can you help me? You heard the question Mr. Olah wants me to ask, and I will repeat it. As I understand it the question is the drugs that do need to be checked with another nurse, is it customary not only to check the quantity of the drug but also to draw the drug up in the presence of another nurse?



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A. Usually you would be together but there were occasions as well where someone else was busy and you would draw up the medication and have them ready and then the other person would come and check these syringes with the medication ticket.

Q. But the two situations are really quite different, are they not?

A. Yes they are.

Q. Normally you draw up the drug for your own patient?

A. Right.

Q. And with those which you are required to check you are checking that you have in fact drawn up the right amount?

A. That's right.

Q. And therefore you don't need to draw that drug up in the presence of anybody else as long as the calculation of the dose and the quantity in the syringe is correct?

A. Right.

Q. Here you are talking about a situation of A administering a drug to B's patient?

A. Right.

Q. In those circumstances, would you expect to be satisfied that A was in fact



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administering the right drug to your patient?

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A. If it was a drug that was
supposed to be checked?

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Q. Whether it is a drug that is
supposed to be checked or not. Did you not have
misgivings about using the syringe in the
refridgerator?

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A. Yes, I did.

9

Q. Why?

10

A. Because I had not drawn it up.

11

Q. Because you had not drawn it
up. Did you have some misgivings about the drugs
taped to the foot of Justin Cook's bed the next night?

12

13

A. To some extent, yes.

14

Q. Because you hadn't drawn it
up?

15

16

A. Yes.

17

Q. And I take it those concerns
reflect your measure of unease of giving something
to your patient which you have not yourself prepared?

18

19

A. Right.

20

Q. Whether it is a drug whose
quantity needs to be checked or not?

21

22

A. Right.

23

Q. And therefore the situation

24

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where someone is going to administer to your
patient a medication is a bit different from the
normal checking of dosage procedure is it not?

5

A. Right.

6

THE COMMISSIONER: You can tell how
much of course is in the syringe?

7

THE WITNESS: Yes.

8

THE COMMISSIONER: You just can't tell
what the drug is?

10

THE WITNESS: No.

11

THE COMMISSIONER: If I were to hand
you a syringe --

12

THE WITNESS: Right.

13

14

THE COMMISSIONER: It might be the
right colour and that sort of thing, but you couldn't
say it was the right drug because it has been taken
out of the vial. That presumably was what Mrs.
Trayner was presenting you with the vial for?

15

16

17

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THE WITNESS: That's right.

19

THE COMMISSIONER: So you would know
it had come out of the vial?

20

21

THE WITNESS: Right.

22

THE COMMISSIONER: There is surely no
reason for you to be suspicious at all?

23

THE WITNESS: Not at all.

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THE COMMISSIONER: If she produces the vial and then the syringe, you know it is the right amount and it has got the right appearance?

THE WITNESS: Right.

THE COMMISSIONER: And the vial is the right drug?

THE WITNESS: Right.

MR. LAMEK: Q. Understand me, Miss Nelles, I am not suggesting you should have been suspicious.

A. No.

Q. Indeed did I not say to you that you had no reason to disbelieve or doubt that?

A. No, I did not.

Q. And I think we have agreed that you could have no absolute guarantee of what was in the syringe was what you reasonably believed to be in the syringe?

A. Right.

Q. That's fair isn't it?

A. Right.

Q. Neither did you see the medication administered?

A. No, I did not.

Q. Now in Volume 125 at page 8873,



6

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Mr. Commissioner.

3

THE COMMISSIONER: The page?

4

MR. LAMEK: 8373, I am sorry.

5

Q. Mr. Strathy was asking you, Miss Nelles, about your long break, the second break on the night that Justin Cook died?

7

A. Right.

8

Q. And he asked you these questions beginning at line 11, sir:

10

"Q. How long was it that you were in the nursing station for your break, in total?

12

A. About 45 minutes.

13

14

Q. During that time do you recall going back to look in on Cook from time to time?

15

16

A. I went to the doorway, yes.

17

Q. The doorway of the Cook room?

18

A. Yes.

19

Q. And why was that?

20

A. Because I wanted to see how he was."

21

We pause there. Do you recall whether there was any particular event that caused you to go to the room to check on the child during your break?

22

23

24

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A. It is my recollection that he
was crying.

4

Q. And do you recall how far
into the break that was?

5

6

A. I don't remember.

7

Q. And when you got to the door
of the room did you actually go in, or did you stay
in the door and just look in?

8

9

A. I just went to the door and
said, "Are you all right" to Mrs. Trayner.

10

11

Q. And the answer was?

12

A. Yes.

13

Q. Did he appear to settle down?

14

A. I believe so, I left.

15

Q. The next question that Mr.
Strathy asked was:

16

"Q. And do you recall when that was
in your break, was it midway through,
was it more than once?

18

19

A. I believe it was just shortly after
I had left the room.

20

21

Q. And do you recall going in more
than once during your break?

22

23

A. No, I don't remember going more
than once."

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Q. And I take it therefore that the occasion that you have just referred to when you believed the child cried and you went to the door to look is to the best of your recollection the only occasion you went to the room during that break?

A. That's right.

Q. And you have no recollection during the break of actually going into the room at all, merely going to the door once?

A. Right.

Q. Now Mr. Strathy, again, in Volume 125 and this is at page 8354, Mr. Commissioner, was asking you about the events of the night when Babies Manojlovich and Pacsai died?

A. Yes.

Q. And in particular about the Manojlovich arrest to which you went and which you assisted?

A. Right.

Q. If I can summarize the effect of the question I believe I can do it fairly by turning to page 8356. You remember that Mr. Strathy read to you an extract from the evidence that Yvonne Lyons had given at the preliminary inquiry?

A. Yes.



1
2 Q. And having read that extract
3 to you he put this question at the bottom of page
4 8356:

5 "Q. Now, it appears from Mrs. Lyons
6 evidence that she was in the room when
7 you left to go to Baby Manojlovich and
8 it appears that she was also there when
9 you returned and it appears, at least on
10 my reading of it, that she was there
11 throughout the time that you were away.
12 Did that refresh your memory at all as
13 to whether Mrs. Lyons was in the room
14 when you left to go to see Manojlovich?

15 A. I don't remember her being - as
16 I say I don't remember whether she was
17 there or not when I left."

18 Mr. Strathy clearly read the passage
19 of Yvonne Lyons evidence at the preliminary as
20 suggesting that she was in Pacsai's room while you
21 were away and throughout the time while you were away.

22 Do you recall at the preliminary
23 inquiry your counsel, Mr. Cooper, cross-examined
24 Yvonne Lyons on that matter?

25 A. Yes, I do.

Q. Mr. Commissioner, the passage



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is found in Volume 8 of the preliminary transcript and it begins at page 117. Perhaps I can summarize the early part of this before coming to the particular questions that I want to read and put to Miss Nelles. Miss Lyons agreed with Mr. Cooper in the early part of the shift that she was looking after her patients in Room 433 and she had other patients there and Miss Nelles was looking after her other patients in Room 437 that neither of them would be in 431 with Baby Pacsai. At page 118, line 18, the following exchange occurred:

12

13

14

15

"Q. Right. Similarly when Susan went off to see Manojlovich during that arrest do you remember what time that was in the morning the Manojlovich arrest?

16

17

A. The exact time I can't remember. It could be any time after 2 o'clock.

18

19

Q. It could have been any time after 2 o'clock. That was a Code 25, wasn't it?

20

21

A. Yes it was.

22

23

Q. So she left Room 431 and you saw her go?

24

25

A. Yes.



Nelles, re.dr.
(Lamek)

9010

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"Q. And then at some point - was she gone for an hour, an hour and a half during that arrest?

3

4

A. I can't remember.

5

6

Q. You can't recall that?

7

8

A. No.

9

10

Q. At some point even while she was gone for the arrest you left to go to 437 to see some of your other children, Room 433 to see some of your other children is that right?

11

12

A. Yes.

13

14

Q. So during that period your children there had to be left alone, but that wasn't a terrible thing because they were not on constant care. Is that right?

15

16

17

A. No.

18

19

Q. Right. So unless another nurse came in to see the children and deal with them in the absence of you and Susan Nelles those children were alone. Is that right?

20

21

22

A. Yes."

23

24

I take it you heard Miss Lyons give

25



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that evidence in cross-examination?

3

A. Yes.

4

Q. And you cannot tell us whether

5

Pacsai and his roommates in Room 431 were left alone

6

at any stage while you participated in the Manojlovich
arrest?

7

A. No, I cannot.

8

Q. It does appear from what Miss

9

Lyons says that they were left alone for some period

10

of time while you were away?

11

A. Yes.

12

Q. While we are speaking of

13

Baby Pacsai, could you help us with one thing, Miss

14

Nelles, do you have your notes on that child, they

15

are Exhibit 393. I confess I have restapled my copy
of these notes so it looks a bit more like a book.

16

I have a page 109 and stapled to the back of it what

17

you have is a second page facing page 110.

18

A. Yes.

19

Q. Is that really a more

20

comprehensible set up of these notes?

21

A. That's right.

22

Q. So that what appeared to be

23

notes on the back are really facing the following
page?

24

25



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A. Right.

3

Q. Now if you look at page 111

4

for me and the notes which would face that page, the
preceding page in the clip that you have got. It

5

is a page of notes that begins a little over half way
down the page with the words:

6

7

"Phyllis Trayner was my team leader
for a ..."

8

9

Do you have it?

10

A. Right.

11

Q. Now I need a bit of help if

12

I may please first in deciphering and then under-
standing some of this language, and I recognize it
is not your handwriting.

13

14

A. Right.

15

Q. And you may have as much

16

difficulty with it as I do, but on the other hand the
notes are apparently notes of what you were saying
and that may help you to decipher the handwriting,
could you read that?

17

18

19

A. I am not sure that they were
necessarily - they may have been partially for Mr.
Cooper's use as well.

20

21

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Q. I am sure they were for Mr.

23

Cooper's use, but whoever made those notes I take it

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from the way in which they are written was trying to
get a more or less verbatim note of what you were
saying?

A. I think so, yes.

Q. After all Phyllis Trayner was
not Mr. Cooper's team leader.

A. No.

Q. When he says "Phyllis Trayner
was my team leader", I presume he is taking down your
language.

A. Right.

Q. Now, can you help me with that
note first of all:

"Phyllis Trayner was my team leader
4A she was involved..."

A. Yes.

Q. "...baby died, arrest - she
came to help me because no one else
around. Left Kevin with Phyllis..."
And then I run into a bit of trouble, can you help
me with those words.

MR. SOPINKA: "...from the time ..."

THE WITNESS" "...for a time..."

Q. "From the time" or "from time
when went to get a drink and cigarettes."



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2

A. Right.

3

Q. Who went to get a drink and
cigarettes?

4

A. I did.

5

6

Q. Now, can you fix that for me
in the chronology of events, was that upon your return
from the Manojlovich arrest?

7

15

8

A. That's right.

9

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Q. Was it shortly after your
return that you left the child with Mrs. Trayner?

11

12

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14

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A. It was in the period of time
that I was concerned about Kevin, and I believe when
Dr. Costigan had made the decision that he would
transfer the baby to the Intensive Care but he was
making those arrangements, and Phyllis asked me if
I would like a break and she relieved me while I
went out.

17

18

19

Q. Now you then got a line which
apparently explains for Mr. Cooper the 2:1 block which
appears in the notes on the other side. You say:

20

"Major block in rhythm of heart..."
And then the next note as I read it says:

21

22

"No one discussed dig. toxicity was
in back of mind."

23

A. Right.

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Q. Now, in the back of whose mind was dig. toxicity?

A. It was my feeling that I asked Dr. Costigan what he thought was the reason for the abnormal rhythm of this child; it seems to be my recollection that he said that it was either a sick sinus syndrome or a possible dig. toxicity, but I can't be positive of that. I don't know whether I am getting that from having read the chart.

Q. It is my recollection that when I examined you several days ago now that when we looked at the Pacsai chart we looked specifically at the differential diagnosis made by Dr. Costigan that morning and I rather thought you said you had been aware of those things.

- - - -



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A. It is my recollection that I asked him what he thought was causing or why this child had such an abnormal rhythm.

Q. Okay. And was it then in Dr. Costigan's mind, in the back of Dr. Costigan's mind, that you are suggesting that digoxin toxicity was lurking as a possibility?

A. Right.

Q. Okay. But there was no discussion of it you say according to this note?

A. Other than - my recollection, as I say, is that I asked him. There was not a discussion. It was simply I asked him what he thought was the problem with this child.

Q. Okay.

THE COMMISSIONER: Yes, Mr. Olah?

MR. OLAH: Before my friend leaves that subject, perhaps we could have a translation of the next line also.

THE COMMISSIONER: "Thought we'd lose him - to lose 2 in one night was particularly frightening."

MR. OLAH: You are much better in interpreting Mr. Cooper's writing obviously than I am if that is what it is.



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THE COMMISSIONER: Well, it is much better writing than my own. So I am experienced.

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MR. SOPINKA: I don't know if any of this is re-examination. I don't remember anybody cross-examining in that - I mean I am not objecting but if everybody is going to be standing up, "read us this", "read us that" we are going to be into a long examination.

9

10

THE COMMISSIONER: Well, it is not yet epidemic.

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MR. SOPINKA: Well you have to stop it when it starts.

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14

MR. OLAH: Mr. Sopinka worries too much, Mr. Commissioner.

15

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MR. SOPINKA: I worry about you.

MR. LAMEK: Q. There are only four words there that I cannot read, Miss Nelles. They are the first words of what is written obliquely. It says:

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"Kantak was a paediatric resident" and above that four words which I cannot read. Can you help us?

21

22

THE COMMISSIONER: "Available to the whole hospital".

23

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MR. LAMEK: "Available to the whole



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hospital", thank you.

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THE WITNESS: Yes.

(2)

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MR. LAMEK: Q "May not have too much
cardiology background".

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A. Right.

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Q Miss Nelles, there has been a
good deal of evidence given about constant care
nursing, shared care nursing, relief provisions that
are made and so on. I want to be clear from all that
has been said - I want to focus upon night shifts. Is
it usual for a nurse on constant care or shared care
nursing at night to be relieved by an R.N.?

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A. I don't think that - usually it
is an R.N. who is assigned to constant care and I
don't think the differentiation comes between days
and nights. I don't think it really matters whether
it is days or nights. If an R.N. is available that
is the preferred course that should be taken for
relief of constant care, but if there is not someone
available then it is an R.N.A. An R.N.A. can in that
circumstance relieve, but I really don't see that
there is the differentiation between days and nights.

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Q Do you recall any occasion,
first of all, in the nine-month period in which we
are interested and then let's enlarge it to the



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entire time that you worked on the cardiology service of the Hospital, do you recall any occasion when you or any other R.N. with a constant or shared care nursing assignment was relieved for a break by an R.N.A.?

A. Well, I remember with Estrella that definitely Mary Cooney relieved Gloria Ganassin during the day.

Q. That was during the day?

A. Yes.

Q. But you say no distinction at night?

A. No.

Q. All right. Other witnesses have suggested there may be, you see.

A. Yes.

Q. Do you recall any night shift when you or any other nurse to your knowledge was relieved on a constant or shared care nursing assignment by an R.N.A.?

A. For a short break.

Q. I am talking about coffee and lunch breaks. Major breaks of the night.

A. I certainly can remember some occasions where someone wanted to leave the room for



F.5

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a few minutes and said to an R.N.A. "Would you please
sit here for a moment".

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Q. Surely.

5

A. While they go out.

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Q. I agree that is not unusual. We
have heard that evidence. But frankly I am surprised
by any suggestion that R.N.A.'s may relieve for
breaks on constant care or shared care at night
certainly. Sui Scott could certainly recall no such
occasion.

11

12

13

I ask you, therefore, can you recall
any occasion of relief by an R.N.A. at night of a
nurse on constant or shared care?

14

A. I can't remember, no.

15

16

Q. Did nurses ever come over from
Ward 4B to relieve a constant care nurse on 4A for
her break?

17

A. No.

18

Q. Or 4A over to 4B for that purpose?

19

A. No.

20

21

Q. I know you might be assigned
for all or part of a shift to work on the other side.

22

A. Right.

23

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Q. But situations did not arise
where let us say Mrs. Scott is on constant care on 4A,



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there is no one who can relieve her for a break, no
R.N. who can relieve her for a break so someone comes
over from 4B to do it. That did not happen?

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A. No, it did not.

6

Q. Okay.

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THE COMMISSIONER: Mr. Lamek, do you
not think that Exhibit 395 - this is getting into
argument - would have specified if that were the rule
that you could be relieved only by an R.N.? I take
it 395 has now been distributed, has it? Nowhere
there does it say anything about R.N.'s or R.N.A.'s.

12

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MR. LAMEK: No, it doesn't, sir, but
equally I have understood the evidence to be that
R.N.A.'s are not assigned to constant care in the
first place.

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THE COMMISSIONER: That's right.

17

MR. LAMEK: Is that fair?

18

THE WITNESS: Usually, yes.

19

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THE COMMISSIONER: That's true, but --
MR. LAMEK: This document doesn't
even suggest that only R.N.'s can provide constant
care. I suggest the document is silent on the point,
is it not?

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THE COMMISSIONER: What would you
think, for instance, Miss Nelles - this is way off -



F.7

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supposing the parents were visiting. Would you consider it wrong if you were on constant nursing care to leave the baby with the mother to go out for a short period?

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THE WITNESS: Yes, it is.

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THE COMMISSIONER: That is wrong, is it?

8

THE WITNESS: Yes.

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MR. LAMEK: Q. There is a matter, Miss Nelles, I would like your help on if I can. The great chart that we have been referring to throughout with all the Category A and B deaths listed. By all means check my counting if you will, but you might be prepared to rely on me for it.

14

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Of the 29 Category A and B deaths that are listed on that chart by my count seven (that is to say almost 25%) occurred on Ward 4B?

16

A. Right.

17

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Q. Now so far as I am aware, Miss Nelles, none of the seven patients who died on 4B was on constant or shared nursing care at the time of his or her death. And the reason I have to ask you for some help is of course we don't have the 4B assignment books for the first part of what we call the epidemic period.

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With respect to, and I confess I am



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drawing a bow at a venture here, it is a long shot, with respect to Woodcock and Taylor and Onofre I tell you I found no indication in the charts that constant care or shared care was ordered for any of those children.

Do you have any recollection or information at all as to whether some enhanced level of nursing care had been ordered for any one of those?

A. The only one I am not sure about is Manojlovich. It is my feeling that she may have been on shared care. She was certainly in an isolation room.

Q. Yes. But apart from the others you have no recollection that any of the 4B patients was at the time of their deaths on constant or shared care?

A. I don't know, no.

Q. You don't know either way?

A. I don't recall that any of them were but --

Q. Well, fairly, do you recall either way or do just have no recollection at all?

A. It would be really impossible for me to know.



F.9

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Q. Okay. I said it was a long shot.

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THE COMMISSIONER: Was there a practice of the most ill babies being put on 4A with constant care?

5

6

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THE WITNESS: The only differentiation is that 4A had more infant beds whereas 4B had more older children's beds, so if we had an infant transferred to the Hospital it seemed more likely that they would be assigned to 4A because there were more beds available for infants on that side.

11

12

13

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16

MR. LAMEK: Q. You were quite right about Manojlovich, of course. She was on, according to the tour end report, shared care, and according to the assignment book, on constant care the night of her death. Frankly those deaths are not my difficulty. We have the assignment books for those.

17

18

19

20

A. Right.

21

22

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Q. It is the earlier ones for which we don't have the assignment book about which I hoped you might be able to give me some help. But clearly you cannot. I was hoping for too much.

Is it fair to say, Miss Nelles, in your recollection that generally speaking the team leader has the lightest patient load, certainly at nights?



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A. In terms of patient assignment,
yes.

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Q. Is it fair then to say generally
speaking the team leader is more readily available
to relieve constant or shared care nurses because of
her relatively light patient assignment load?

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A. Yes.

Q. Now while we are talking about

team leaders, Mr. Hunt in Volume 125 (page 8449, sir)

asked a series of questions about your perception of

yourself in relation to Mrs. Trayner. Do you remember
that?

13

14

A. Yes.

Q. Beginning at line 4:

15

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"Q. All right. Did you feel that
you were as capable as Phyllis Trayner
to be the team leader?

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"A. I don't recall comparing myself
to other people in that sense of the
word. I recall thinking that in terms
of what had been told to me that I had
reached the stage that I had been on
the floor long enough and I had gained
enough experience and I had enough
background that, yes, now I could be



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"considered to at least think about fulfilling that role, but I didn't compare it, didn't think of myself as capable as anyone else.

"Q. Now it has been suggested by at least two of your colleagues, and that is Nurses Costello and Bell, that in their perception, part of the tension that existed between you and Phyllis Trayner had to do with personalities and that in part might have been responsible or in part might have been grounded in the fact that you felt you were as capable of being a team leader as Phyllis was?

"A. I felt that I was as capable an R.N. as Phyllis Trayner was. It had no relation to team leading."

Now with respect to Phyllis Trayner's team leadership is it fair to say that you did not care for her leadership style?

A. In the beginning we had some differences, yes.

Q. Indeed you positively disliked it, did you not?



F.12

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A. I didn't agree with it, no.

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Q. You disagreed with it. What I suggested was disliked it to the point where you told the head nurse that if that attitude and conduct didn't change you wanted to be assigned to another team. Is that correct?

7

8

MR. SOPINKA: My friend went into all of this in his examination.

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MR. LAMEK: Well, I am going into it again if I may, Mr. Commissioner, with a purpose.

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MR. SOPINKA: Well, if he admits that is what he is doing. I may have some re-examination.

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THE COMMISSIONER: Well, this follows upon Mr. Hunt's examination. If you want --

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MR. SOPINKA: Yes, but nothing new arose out of it.

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THE COMMISSIONER: I have a simple solution to this. It is not one that appeals to me but if after this is over you feel you would like some further examination of your client you can move for it and I will grant it. And then of course there will be further re-examination after that. This is prefaced on Mr. Hunt's examination so it is --

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MR. SOPINKA: He mentions it but he



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asked the same questions in his original examination.

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THE COMMISSIONER: Well --

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MR. SOPINKA: Well, I am not going to -
Commission Counsel, if he wants to ask further
questions presumably he is entitled to, but I mean
let's not call it re-examination.

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MR. LAMEK: Well, Mr. Commissioner,
whether it is re-examination at the moment is a little
premature. Let me make it plain. I am to a degree
challenging the proposition that Miss Nelles did not
compare her potential leadership qualities with that
of Mrs. Trayner and what may have flowed from that.

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THE COMMISSIONER: Yes.

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MR. LAMEK: Q. You have told us for
the sake of the continuity, Miss Nelles, these are
my words - you may not choose to adopt them; use
your own - you found her leadership style overbearing?

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A. I didn't feel that she was
working with me.

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Q. Okay. Did she seem to set a
distance between herself as a leader and the other
members of her team, a sort of boss/employee
relationship? Is that what you perceived?

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A. I got that impression at that
time, yes.



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Q. Rather than being the first
among equals she was above you and you were beneath
her? Is that the impression you had?

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A. I had that feeling at times, yes.

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Q. And you thought that approach
was not conducive to effective operation of the team
as a team I take it?

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A. That was my feeling, yes.

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Q. Were you aware whether other members of the team had similar feelings about her leadership style?

A. I was aware I believe of Bertha Bell's feelings as a team leader opposite to her. I don't recall really talking to the other team members about that specifically.

Q. Did you form any impression as to whether Mrs. Scott seemed to find the Trayner leadership style a happy one?

A. I got the impression at times that she felt like I did.

Q. Now, you have told us frankly and perfectly understandably that presumably from the time you arrived on the cardiology service you hoped that eventually one day you would become a team leader.

A. That I would improve myself, yes.

Q. Yes, of course. And from the time of your evaluation in the fall of 1980 you had every proper basis to expect that you would become a team leader in the fairly near future, did you not?

A. That was what was written there.



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Q. Of course. I suggest to you that you must have given some thought as to how you would deal with your team when that time came, how you would deal with your team so as to promote feelings of cohesion and cooperation and team spirit. You must have led your mind to that, did you not?

A. I'm not so sure that I did really specifically relate it to those kinds of thoughts.

Q. Miss Nelles, surely you thought that you could do a better job in promoting cohesion and team spirit and cooperation by adopting a style other than the one that Mrs. Trayner had and which bothered you?

A. I didn't look at it that way. I looked at it that I wanted to resolve a situation that was occurring at that time.

Q. Of course you did, but did you never say to yourself, when I become a team leader, I am not going to make my team members feel this way?

A. I may have but I don't remember feeling that way.

Q. Did you not in fact feel that you would be at least as effective a team leader in



1
G3 2 terms of the dynamics of the team and cooperation
3 and cohesion as Phyllis Trayner was?

4 A. As I say, I really don't re-
5 call comparing myself to her in that way.

6 Q. All right. Now, Mrs. Trayner
7 you have told us, and you told Mr. Percival in
8 particular, Volume 126, at page 8620, sir, Mrs.
9 Trayner you told him with respect to Miller and
10 perhaps Cook helped you to do the final nursing
11 notes following the death of Miller and the death of
12 Cook. Do you remember telling him that? I can
13 refer you to a particular answer if it would be help-
14 ful?

15 A. I can recall on various
16 occasions that I would consult Mrs. Trayner as to what
17 to include in the notes and with respect to Cook, she
18 had relieved me for a certain period of time, so I
19 wanted to check with her about the feeding. I believe
20 I already knew.

21 Q. Sure.

22 A. And with respect to Miller I
23 was there so little that I needed to get some
24 information.

25 Q. And you so said about Miller
when Mr. Percival asked you those questions and



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obviously it makes sense she probably spent as much time with the baby as you did that night.

A. Right.

Q. And in completing the final note it would be helpful to you to know what her observations had been?

A. Right.

Q. And similarly with Cook when, as you say, she relieved you in the aggregate anywhere up to an hour and a half over the course of two breaks and it would be helpful to know if there was anything that should be included that occurred during those breaks?

A. Right.

Q. Now, Mr. Percival did ask you this question, it is at page 8622, Mr. Commissioner, in Volume 126, line 4:

"Q. Well, whether or not it is 11 or 12..."

That related to a previous exchange.

"...do you recall that on those occasions when Phyllis Trayner was team leader and you were the nurse that was in charge of the baby that died, did on each and every occasion



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Phyllis Trayner assist you in preparing the final nursing notes?"

And your answer was:

"A. I don't remember that she helped me on all of them or even a great part of them. If she did help me it would not be during the course of the evening but would be more in terms of the actual final events and when the children showed difficulty and who arrived and what was done. Those were the times that I asked her assistance at times."

And my question to you arising out of that is this, Miss Nelles, do you recall any occasions other than Miller or Cook when Mrs. Trayner was able to assist you as to the events that happened during the course of the shift because, for example, she had relieved you or she had something to do with the child in the course of the shift in your absence?

A. I don't remember that so much as asking her for help in wording and preparing the note so that it would accurately portray the events of the night.

Q. And you do not recall any



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G6 2 case then other than Miller and Cook where you needed
3 her contribution as to observations that may have
4 been made in your absence?

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6 A. I always asked her, or almost
7 in every case I believe I would ask her to read my
8 final nursing note and see if there was anything that
9 she could recall or add or think that I should include.

10

11 Q. All right. In particular do
12 you remember getting any help or information from her
13 with respect to Lillian Hoos or Kelly Ann Monteith?

14

15 A. I don't specifically remember,
16 no.

17

18 Q. Would it be of any assistance
19 to you to look at your final notes on those two
20 children; if you think it would not then tell me and
21 we will save the time.

22

23 A. I know that there was one
24 chart I noticed that had an asterisk and there was an
25 addition made at the bottom.

26

27 Q. You don't recall which one?

28

29 A. I don't remember which chart
30 it was, no.

31

32 Q. Okay.

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34 THE COMMISSIONER: You are saying,
35 'I do remember the occasion but I don't remember the

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name of the child'?

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THE WITNESS: Right.

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THE COMMISSIONER: What happened?

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Was that an addition that was given to you by Phyllis Trayner?

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THE WITNESS: I don't know but I'm saying there was an asterisk, I noticed there was an asterisk in the content and that there was an addition at the bottom.

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THE COMMISSIONER: Yes, but what do you draw from that?

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THE WITNESS: I don't know, someone may have said to me, you forgot to add this.

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THE COMMISSIONER: I see.

MR. LAMEK: Mr. Commissioner, we have been going for an hour and a half and I may have ten to fifteen minutes more. May we take a short break now, please?

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THE COMMISSIONER: Yes, all right.

MR. LAMEK: Thank you.

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THE COMMISSIONER: We will take, what, ten minutes, is that enough?

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MR. LAMEK: Fifteen minutes, please.

THE COMMISSIONER: Fifteen minutes, all right.

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--- short recess.

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--- on resuming.

THE COMMISSIONER: Yes, Mr. Lamek.

MR. LAMEK: Thank you, sir.

Q. Miss Nelles, we will not be much longer I promise you.

In the course of Mr. Percival's cross-examination, and I am referring now, Mr. Commissioner, to Volume 126, page 8656.

Beginning at line 7 Mr. Percival asked you these questions, and I am giving them to you to assist your recollection:

"Q. I understand. I want to deal with the situation that I think Mr. Hunt put to you, and I want to talk in terms of going back to the death of Allana Miller and the evidence that Bertha Bell has given in these proceedings about a 3 cc. syringe being utilized by Phyllis Trayner and administering something into the buretrol of Allana Miller at or about midnight on the night she died."

"A. Right."

"Q. Do you remember saying yesterday..."



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and then he gave the page reference.

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"...to Mr. Hunt that at some point in time you were shocked to learn about that evidence. I had better put it to you fairly."

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"A. That was his wording. I answered, 'yes'."

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"Q. I'm sorry. Well, then, were you shocked, whether it is his wording or yours, and was that your view of the evidence?"

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"A. I was surprised to hear about it, yes."

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"Q. Well, does it then retreat from -- then you don't agree with the word 'shocked', it is just a question you were surprised?"

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"A. I agreed with what he said to me, yes."

17

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"Q. Well, no, he used the word 'shocked', you agreed?"

19

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"A. Right."

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"Q. Do you still say you were shocked when you learned of that information or is it now you were

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surprised?"

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"A. Those were the words that he chose, that would not necessarily be the wording I would choose."

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"Q. Well, tell me your choice of wording?"

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"A. I was surprised when I heard that evidence, yes."

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Now, there is a distinction there that frankly escapes me a little bit. Can you tell me where on a scale of 1 to 10 surprise and shock have their place?

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A. I had never heard that evidence before, so it was surprising, in other words, I had not heard anything to that effect before. To me, shocked seems more surprising I guess or that it really made an impact on someone.

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Q. All right. Perhaps we had better see just what it was that you said to Mr. Hunt then. That is in Volume 125, at page 8534. Mr. Hunt asked you this:

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"Q. Let us move on to Allana Miller. I take it you have heard about the evidence that Bertha Bell gave to this Commission concerning



1
G11 2 her seeing Phyllis Trayner injecting
3 a medication into the buretrol of
4 Allana Miller some time at or shortly
5 before 12 midnight on the night that
6 she died?"
7 "A. Yes."
8 "Q. And can I ask you, when you
9 heard that evidence, was that the
10 first time you had ever heard that?"
11 "A. Yes, it is."
12 "Q. And were you shocked when you
13 heard that?"
14 "A. Yes, I was."
15 "Q. And I take it you were shocked
16 when you heard that because you
17 realized that there was no medication
18 prescribed to be given to Allana
19 Miller at or shortly before 12 o'clock?"
20 "A. Right."
21 I have to say you have now confirmed
22 to me that "surprise" registers a little lower down
23 the Richter scale of reaction than "shock" does but
24 I am a little puzzled, Miss Nelles, that in answering
25 Mr. Percival's questions you backed away from the
shock which you acknowledged to Mr. Hunt. You were



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quite right of course "shocked" was Mr. Hunt's word
but you did agree with it.

A. Right.

Q. And if I may say so you have
not hesitated to reject on other occasions suggestions
that have been put to you if they didn't accord with
your view of the appropriate characterization of
something. You didn't tell Mr. Hunt, did you, that
"shocked" was too strong a word to describe your
reaction when you heard about Bertha Bell's evidence
on the point?

A. No, I did not.

Q. I recognize of course, as
you do I know, that Mrs. Bell later expressed some
doubt about precisely when she saw what she described
to us but if in fact Bertha Bell at or about midnight
on the long night shift of March 20 to 21 did see
Phyllis Trayner in Allana Miller's room putting some-
thing into the buretrol on the IV setup with a 3 cc.
syringe fitted with a needle, why would you not be
shocked?

A. I say "surprised" because, as
I say, I had not heard that testimony before.

Q. Well, it's novelty I would
have thought, if anything, would enhance its effect,



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G13 2 not soften it?

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A. Right.

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Q. You know that there was no medication ordered for the child at that time at midnight?

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A. Right.

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Q. You know that there is none recorded as having been administered at that time?

9

A. Right.

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Q. You don't believe that if Bertha Bell did indeed see what she saw, what she said at midnight, you don't believe that what she was seeing was Phyllis Trayner flushing the IV line?

14

A. That's a possibility, if she was doing it that way.

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Q. In light of your earlier evidence, is it really a possibility with a 3 cc. syringe?

18

A. I would say it was unlikely.

19

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Q. You have told me already you can think of no explanation for what Phyllis Trayner was doing, if indeed Bertha Bell saw what she described at midnight?

22

A. Right.

23

Q. And if Phyllis Trayner was

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G14 2 seen to be doing something unauthorized, unrecorded
3 and inexplicable in adding something to the buretrol
4 and the IV of a child who later died that night, are
5 you not indeed shocked?

6 MR. SOPINKA: Well, I don't know
7 that it is inexplicable, we haven't heard from Phyllis
8 Trayner.

9 A. I guess it is my feeling that
10 I am relying on what someone is saying.

11 MR. LAMEK: Q. Yes.

12 A. And I don't know what Mrs.
13 Trayner has to say about it, I was not there.
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Q. Miss Nelles, I understand all of that, and of course we will be hearing Mrs. Trayner's story of what happened and her explanation, if she has an explanation, whatever it may be, and it may well be that the whole incident may be totally explained to everybody's satisfaction. But at the time you heard that evidence I take it you went through in your mind what on earth it could possibly mean.

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A. Right.

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Q. And being unable to find an explanation that fitted the evidence that Mrs. Bell gave, did you not find that as you agreed with Mr. Hunt, shocking?

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A. Yes.

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Q. Now I have just one final area please if I may. Mr. Percival again in cross-examination and Mr. Olah again yesterday pursued a certain point with you, and Mr. Percival's cross-examination is found in Volume 126 at page 8705, beginning at line 11, and Mr. Percival asked you this:

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"Q. Yes. Do you have an opinion, and answer it yes or no, from the time of your arrest up until the present time whether anyone else was



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"administering digoxin that was not prescribed or administering overdoses of digoxin?

A. That possibility arises, yes."

Mr. Percival was about to ask a question and the Commissioner said:

"THE COMMISSIONER: That would appear that is a good enough answer. I am more interested in the basis for it."

And Mr. Percival therefore asked:

"Q. What is the basis for that opinion?

A. I think like many other people the fact that we have a baby, Justin Cook, who is not prescribed digoxin and who has a level that is extremely high, and the body does not manufacture that drug, I guess that is the one thing that is hard to explain any other way."

Now, Mr. Olah yesterday pursued that point a little further with respect to Justin Cook, and whenever I can find my way through all of this stuff I will try to remind you of what you said. It



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2 begins at page 8806, Mr. Commissioner. I won't
3 bother to read the whole of this but you will remember,
4 Miss Nelles, that Mr. Olah had you tell him that
5 except for breaks you were with Cook constantly
6 throughout that shift until the time of his arrest.

7 A. Right.

8 Q. And that as far as you were
9 aware when you were on your break Mrs. Trayner was
10 with him constantly?

11 A. Right.

12 Q. Now, the pharmacological
13 evidence that we have had, and I am sure you are
14 aware of this and I hope I summarize it correctly;
15 is that the best pharmacological opinion is that if
16 Baby Cook received digoxin, and he almost certainly
17 did, then it was administered to him some time during
18 the long night shift March 21 to 22, you are aware
19 of that opinion as having been expressed. I take it
20 that we can agree whether digoxin was administered
21 to that child accidentally, or knowingly, it had to
22 be administered by a person?

23 A. I would think so.

24 Q. Yes, I would have thought so.
25 By a person who had access to Cook during that night
shift?



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A. Yes.

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Q. We know that Cook did not leave 418 during the night shift, so "Mohammed had to go to the mountain" if there was to be an administration of digoxin, the person had to go to Cook in Room 418?

8

A. Right.

9

Q. Are we together so far?

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A. Yes.

11

Q. You were giving constant nursing care for Cook that night?

12

A. Yes.

13

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Q. You told Mr. Olah that at no time during the shift, from the moment you took over from Sui Scott until the time that child arrested did you leave 418 except when you were relieved for breaks?

18

A. Right.

19

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Q. Now you had two breaks as we know, from 11:15 until about midnight and from 2:30 until about 3:15.

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A. Right.

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Q. Each time you were relieved by Mrs. Trayner?

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A. Right.

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H5 Q. You told Mr. Olah so far as you know during neither of those breaks did Phyllis Trayner leave Cook unattended?

A. Right.

Q. Now of course we will have to ask Mrs. Trayner whether in fact she stayed with him constantly, you can't tell us that for sure?

A. Right.

Q. But you didn't leave him for a moment except when you were relieved by Phyllis Trayner?

A. Right.

Q. And therefore if Justin Cook received digoxin that night, is it fair to say the dose had to be administered by one of five people? Either by you, or by somebody in your presence while you were in the room. Or by Mrs. Trayner, if she did not leave the room during breaks; or by somebody in her presence; or if she left the room by somebody in her absence?

A. Right.

Q. Can you think of any other possibility than those five?

A. No.

Q. Now, you can help us with two



Nelles, re-ex.
(Lamek)

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of those possibilities. You have been asked repeatedly
and I ask you again for the sake of filling in the
lines here, did you administer digoxin to Justin
Cook that night?

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A. No, I did not.

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Q. Did anybody in your presence
administer digoxin or any other medication to Justin
Cook that night up to the time of his arrest?

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A. Not that I am aware of.

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Q. Well, while you were in the
room I take it it would have been enormously
difficult to administer anything to that child
without you knowing it, would it not?

14

A. Right.

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Q. Now, Miss Nelles, if those
answers are true, it follows, does it not, that
the only persons who could have given digoxin to
Baby Cook that night would be the other three
possibilities that I mentioned. That is to say
Mrs. Trayner, or someone in her presence; or if she
left the room someone in her absence?

21

A. Right.

22

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Q. And we have to see what she
says about those three possibilities, do we not?

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A. Yes.

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Q. And as to those three you can
be of no assistance to us?

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A. No, I cannot.

5

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Q. And we have your evidence now
as to the first two possibilities?

7

A. Right.

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MR. LAMEK: Miss Nelles, thank you
very much, you have been kept a long time and you
have been very helpful.

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THE COMMISSIONER: Yes, did you --

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MR. SOPINKA: I have one question
that I think should be asked because whether
Miss Nelles has testified to this, or whether it is
based on something that she has told me, it puts
somewhat of a less sinister connotation about one
of the circumstances.

17

RE-DIRECT EXAMINATION BY MR. SOPINKA:

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Q. You recall, Miss Nelles, being
questioned by Mr. Lamek about an occasion on March
21st when Phyllis Trayner came into Room 418 and
showed you a syringe with gentamicin?

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A. Right.

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Q. And the inference was that
she was doing that to satisfy you that the correct
drug was being administered?



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A. Right.

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Q. Now, she didn't sign-off that
drug, did she?

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A. No, she did not.

6

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Q. And if she knew that she
wasn't going to do it, is there any other reason
why she might be showing you that drug at that time?

8

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A. No, there is not.

10

11

Q. How would you know - would
she have to tell you that she had done it, so that
you wouldn't do it?

12

A. Yes, she would.

13

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Q. And might this have been
an alternative method of advising you that she had
administered the drug rather than satisfying you
that it was the right drug?

15

16

A. That's right.

17

MR. SOPINKA: Thank you.

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THE COMMISSIONER: Mr. Lamek, any
further re-examination?

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MR. LAMEK: No. Thank you, sir.

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THE COMMISSIONER: Thank you,
Miss Nelles, thank you indeed.

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THE WITNESS: Thank you.

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THE COMMISSIONER: We will rise now

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until 10 o'clock tomorrow morning.

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---Witness withdraws.

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---Whereupon the hearing adjourned at 11:40 a.m.
until Wednesday, April 11th, 1984 at 10:00 a.m.

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